

MINUTES of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **12 SEPTEMBER 2016** at County Hall, Matlock.

PRESENT

Councillor J Williams (in the Chair)

Councillors: G Birkin, J Coyle (substitute member), J Frudd, Janet Hill, J Innes, D McGregor, R A Parkinson, M Stockdale, J S Street and D Taylor.

Apologies for absence were submitted on behalf of Councillor M Stockdale.

33/16 **MINUTES** **RESOLVED** that the minutes held on 25 July 2016 be confirmed as a correct record and signed by the Chair.

34/16 **REGULATION OF SPORTS GROUNDS – REVIEW ARRANGEMENTS** Members were updated on the arrangements in place for the Regulation of Sports Grounds in Derbyshire and of a review of relevant documentation.

In relation to Chesterfield Football Club a General Safety Certificate in respect of the Stadium in accordance with the Safety of Sports Grounds Act 1975 was granted by this Committee in June 2010.

The Derbyshire Safety of Sports Grounds Advisory Group, Chaired by the Assistant Director of Legal Services and set up in accordance with the recommendations of Lord Justice Taylor following the Hillsborough Disaster was responsible for ensuring that the contents of the Certificate were observed by the Club.

The terms of reference and policy objectives of the Group were agreed at a previous meeting of the Committee. These had subsequently been reviewed and amended and were contained in Appendix 1 to the Director of Legal Services report. In the main the amendments made related to the enforcement process, in the unlikely event that enforcement should be necessary given the excellent working relations that existed between the Club and the Safety Group as further detailed in the report. The self-assessment had recently been reviewed and the draft conclusions were attached at Appendix 2 to the Director of Legal Services report. These conclusions would now be the subject of verification by the Safety of Sports Grounds Advisory Committee.

In relation to regulated stands/smaller sports grounds, there were currently three “places of sport” in the County where there was a regulated stand. Regulated stand or stands which were capable of accommodating at least 500 people under cover. These were:-

Buxton Football Club, Silverlands (2 stands);
Buxton Raceway, Dale Head Road; and
Ilkeston Football Club, New Manor Ground

All the regulated stands above were of a simple design and were covered standing areas with no combustible elements.

A certificate for each of the regulated stands had been reviewed and revised and draft fresh certificates were attached at Appendix 3 to the Director of Legal Services report. The new certifications better reflected modern regulatory practice by requiring the clubs to carry out risk assessments where appropriate. The certificates included proposed changes to certificate holders. The drafts would, subject to the Committee’s approval, be the subject of statutory consultation with respect of certificate holders or prospective holders, the Police, the Fire and Rescue Services and other Members of the Safety Advisory Group.

In relation to smaller sports grounds, Safety Group visits had taken place over the summer months 2016 covering Queens Park, Chesterfield (Derbyshire County Cricket Club), Staveley Miners Welfare FC, Shirebrook Town FC, Matlock Town FC, Alfreton Town FC, Long Eaton United FC, Ilkeston FC, Glossop Northend AFC, New Mills AFC, Buxton FC and Buxton Raceway. As a part of these visits the Clubs have been reminded of the advisory capacities applying and any necessary actions identified.

RESOLVED to approve (1) the revised policy/terms of reference for the Safety Advisory Group;

(2) the self-assessment of the exercise of the Council’s regulatory functions in respect of Chesterfield Town FC for forwarding to the Safety of Sports Grounds Advisory Committee; and

(3) the draft revised regulated stand certificates for consultation as appropriate.

35/16 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 127 – PARISH OF ASHOVER Authority was sought to make a Diversion Order for the permanent diversion of Public Footpath No. 127, in the Parish of Ashover, in the interests of the landowner.

The matter was reported to Committee on 25 July 2016 but due to concerns about subsidies it was decided to defer consideration of the matter until the 2007 policy on subsidies could be reviewed. In the meantime, the Applicant indicated that he no longer wished to seek a subsidy for this application.

Members were informed that the County Council had received an application for the permanent diversion of the footpath in the interests of the landowner to include privacy and security. The proposed diversion would move the footpath around the outside of the applicant's garden so that it passed adjacent to the car park of the Peak Edge Hotel, then through a rural field to the south and east of Myrtle Grove.

If the proposal took effect, it would divert approximately 143 metres of the footpath, shown as a bold solid line between points a and b on the attached plan. The proposed alternative would be approximately 229 metres long with a width of 2 metres, shown by a bold dashed line A-C-D-E-B. The length A-C-D would be surfaced in stone with timber edging. The length between D and E would have a natural surface. The length between E and B would be surfaced in stone and separated from the field by a new dry stone wall. Pedestrian gates would be provided at boundary crossings at points D and E.

No objections were received to the proposed diversion when informal consultation was carried out between 9 March and 6 April 2016. The local Elected Member, Ashover Parish Council and North East Derbyshire District Council had been consulted and had raised no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary order to divert Public Footpath No 127 (part) – in the Parish of Ashover, under Section 119 of the Highways Act 1980; and

(2) that should objections be received to the making of the Order that could not be resolved then the matter be forwarded to the Secretary of State for determination.

36/16 PROPOSED STOPPING UP OF PUBLIC FOOTPATH NO 6 – PARISH OF LONG EATON Members were informed that the County Council had received an application from Network Rail for the extinguishment of Footpath No. 6 in the Parish of Long Eaton (route A-B-C on the plan appended to the Strategic Director's report on the basis that it was unnecessary.

The application was made by Network Rail as stopping up the footpath would facilitate the cost effective management of the railway infrastructure in particular, not having to repair or replace a footbridge at point B that was subject to corrosion. The footpath proposed to be stopped up was considered to be unnecessary as there was an alternative route between the ends of a footpath along Cross Street and Station Street (route A-D-C). A level crossing, point C allowed access across the railway on the route which at 235 metres was some 60 metres short of Public Footpath No. 6. That part of the path to the rear of properties on Bonsall Street would be retained as a private access for these properties and Network Rail proposed to provide keys for a locked gate at Station Road.

Network Rail carried out a survey of the use of the route over a 10 day period in August 2015 during which time 139 people used the route. It was not known what proportion of these were residents of Bonsall Street as distinct from other members of the public.

Erewash Borough Council had been consulted and no objections were received. Enquires with the statutory undertakers confirmed that they were not affected by the proposals and consultation with adjacent landowners had also taken place and no objections raised. The local member also raised no objections.

RESOLVED to approve the making of an order by the Director of Legal Services under Section 116 of the Highways Act 1980 for the stopping- up of Public Footpath No. 6 in Long Eaton.

37/16 CHARGES ASSOCIATED WITH THE PROMOTION OF PUBLIC PATH ORDERS Following concerns raised by members at the previous meeting regarding the waiving of charges for Public Path Orders, consideration had been given to the current policy, as well as the likely impact of new regulations that would come into effect as part of a progressive implementation of the Deregulation Act 2015. The new regulations were currently in draft form and were expected to be implemented from April 2017. It was likely that the new regulations would enable the Council to charge for all the costs of making and confirming an order, and include a charge for submission. This amendment should benefit the Council and assist with the offset of costs. A report on the effect of the Deregulation Act as it affected Public Rights of Way would be presented to the Committee in 2017. Having assessed the Council's policy the Strategic Director put forward a series of recommendations that the Council's approach should be amended as follows:

RESOLVED (1) to approve the following amendments to the Council's policy and charges for public path orders; -

Security

(a) to qualify for a reduction in fees the applicant should demonstrate to the Council that there had been a crime or attempted crime on the premises which could be attributed to the presence of the path. This should be supported by a police incident number;

(b) perceived options would not be accepted as a reason to reduce fees.

Public Safety

(a) the application for reduction of fees where public safety was a concern should be supported by a risk assessment. It must demonstrate that there is a risk to the public;

(2) to approve the full cost of a diversion of a path be charged to the applicant where there was an opportunity to divert the path when planning permission was granted;

(3) to authorise the introduction of the revised charges for processing new public path orders;

(4) to approve that the current maximum charge of £500 per unit of work was no longer applicable; and

(5) to note that a report on the effect of the Deregulation Act 2015 as it affected public rights of way would be submitted to a future meeting of the committee when the regulations were published.

38/16 THE DERBYSHIRE COUNTY COUNCIL (FOOTPATH) FROM PUBLIC FOOTPATH NO. 36 TO PUBLIC FOOTPATH NO.37 – PARISH OF SOUTH DARLEY) MODIFICATION ORDER 2015 Members were asked to note the submission of this Order to the Secretary of State and to determine the stance to be taken by the Council regarding the confirmation of the order.

A copy of the Order plan showing the location of the route was appended to the Director of Legal Services Report.

In October 2013 a report was submitted to the Committee seeking the determination of an application under the Wildlife and Country Act as described above. The recommendation was to dismiss the claim on the grounds that there was insufficient user and documentary evidence to raise a

statutory presumption of the claimed route having been dedicated as a highway. This recommendation was approved by Committee.

The applicant exercised its rights of appeal against the Council's refusal to make an order. The appeal was made to the Secretary of State. Following an exchange of evidence the case was considered by an Inspector of the Planning Inspectorate who recommended that the appeal be allowed. The Secretary of State accepted that recommendation and the Council was directed to make an Order under Section 53(2) of, and Schedule 15(2), The Wildlife and Countryside Act 1981. On 28 July 2014 a report was brought to Committee seeking a resolution to make an Order in accordance with that direction. The order was subsequently made on 6 August 2015.

On 17 August 2015 notice of the order was published on site in the local press and by sending copies to the statutory consultees. Six objections and one representation were received in objection and two representations were received in support of the order. The local member had no objection to the order. In cases where objections were received to an order the matter may only be determined by the Secretary of State.

The Planning Inspectorate, who administered these matters required that the Council, on submission of the order, to state whether it supported the confirmation of the order. The matter may thereafter be dealt with by way of written representations, a hearing or local public inquiry. Committee was therefore requested to determine what stance the County Council was to take on this matter. Three options were available, these being to support the confirmation of the order, to oppose it, or to take a neutral stance.

The Director of Legal Services summarised all of the available evidence as detailed in the report and recommended the adoption of a neutral stance in this matter.

RESOLVED (1) to note the submission of a Derbyshire County Council (footpath from public footpath No. 36 to public footpath No. 37 – Parish of South Darley, Modification Order 2015 to the Secretary of State for determination; and

(2) to approve the adoption of a neutral stance in regards to the confirmation of the Order.

39/16 WILDLIFE & COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH FROM PUBLIC FOOTPATH NO. 17 ON GOOSE LANE TO PUBLIC FOOTPATH NO. 26 VIA ORMONDE FIELDS GOLF CLUB – PARISH OF CODNOR Members were informed that an application had been

received in November 2011 from Codnor Parish Council to add a footpath from Public Footpath No. 17 on Goose Lane to Public Footpath No. 26 via Ormonde Fields Golf Club in the Parish of Codnor, to the Definitive Map and Statement. The application included a map showing the claimed route.

The claim was supported by 25 user evidence forms. Two additional witnesses sent in forms shortly after the application was received making a total of 27 completed user evidence forms.

The application was submitted following an incident when a walker was injured by a golf ball whilst on the Goose Lane Section of the path, which was adjacent to one of the greens. A claim for compensation was made in belief that the path was a public right of way, but it became apparent that the route was not registered on the Definitive Map and Statement.

This incident appeared to coincide with other attempts to challenge use of the claimed path in September 2011. In late November, following receipt of the application a member of the public telephoned the County Council to say that her husband had had an altercation with two employees of the Golf Club and there were moves to fence off or obstruct the claimed route by club owners.

Consultation was carried out during November 2014. Responses were received both in favour for and in objection to the application, which were detailed in the Director of Legal Services report.

The Assistant Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee.

County Councillor Celia Cox and Councillor Chris Emmas-Williams, Chair of Codnor Parish Council, attended the meeting and made representations in support of the application, which included the submission of a series of photographs. A number of queries were raised which were answered by the Assistant Director of Legal Services.

RESOLVED that the claim to add a footpath from Public Footpath No. 17 on Goose Lane to Public Footpath No. 26 via Ormonde Fields Golf Club in the Parish of Codnor be rejected.